

EXHIBIT “B”

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06/06/2014 03:17:48 PM

Allen T. Schuman
CLERK OF THE COURT

1 COMP
2 MATTHEW Q. CALLISTER, ESQ.
3 Nevada Bar No. 001396
4 mqc@call-law.com
5 CALLISTER, IMMERMAN & ASSOCIATES
6 823 Las Vegas Blvd. South, Fifth Floor
7 Las Vegas, NV 89101
8 Phone: (702) 385-3343
9 Fax: (702) 385-2899
10 Attorneys for Plaintiff

11 DISTRICT COURT

12 CLARK COUNTY, NEVADA

13 10 ALFONSO GARCIA, an individual;) Case No. A-14-702050-C
14 11 Plaintiff,) Dept. No. XVI
15 12 vs.)
16 13 TRUGREEN LIMITED PARTNERSHIP, a)
17 14 foreign limited partnership; DOE)
18 15 INDIVIDUALS I through X, inclusive; and)
19 16 ROE CORPORATIONS I through X,)
20 17 inclusive,)
21 18 Defendants.)
22)
23)
24)
25)
26)
27)
28)

COMPLAINT

29 COMES NOW, Plaintiff ALFONSO GARICA, by and through counsel of record.
30 MATTHEW Q. CALLISTER, ESQ. of the law firm of CALLISTER, IMMERMAN &
31 ASSOCIATES and for causes of action against the named Defendants herein, complains, alleges
32 and avers, as follows:

33 NATURE OF THE ACTION

- 34 1. The Plaintiff is a former employee of the Defendant Trugreen Limited Partnership. This
35 2. is his action to recover damages resulting from the Defendant's unlawful discriminatory
36 3. policies and conduct, which were designed to, and did, relegate the Plaintiff was

- 1 subjected on a daily basis to a barrage of insults, retaliation, fear, intimidation, threats,
2 demotion, termination, and coercion because of his racial origin.
- 3 2. The Defendant further discriminated against the Plaintiff on the basis of his racial origin,
4 among other things, creating a hostile work environment.
- 5 6. 3. The Defendant took no remedial action and in fact, exacerbated the situation by
6 7 implicitly condoning such discriminatory behavior.
- 7 8. 4. As a result, the Defendant deprived the Plaintiff of equal employment opportunities and
8 9 personally damaged him by engaging in conduct that is unlawful under Title VII and
9 10 NRS Chapter 613, 613.310 - .435.
- 10 11 5. Additionally, the Defendant engaged in a myriad of tortious conduct towards the
11 12 Plaintiff and is liable for the resulting damages.

12 13 JURISDICTION AND VENUE

- 14 15 6. That at all relevant times herein, Plaintiff ALFONSO GARICA was a resident of County
15 16 of Clark, State of Nevada.
- 16 17 7. Plaintiff was at all times relevant herein an employee of TruGreen.
- 17 18 8. That at all relevant times herein, Defendant, TRUGREEN LIMITED PARTNERSHIP
18 19 ("TruGreen") is a foreign limited partnership doing business in Clark County, Nevada.
19 20 21 9. Defendant TruGreen is a foreign corporation doing business in Las Vegas, Nevada,
20 21 22 employing at least fifteen (15) employees while engaged in an industry affecting
22 23 24 commerce as defined in Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. § 2000e-(b),
24 25 26 (g), and (h).
- 25 26 27 10. That DOE Individuals I through X are fictitious names of unknown Defendants named
26 28 herein; Plaintiff is ignorant of the true names of said individuals so designated by such

fictitious names, and when the true names of said Defendants are discovered, Plaintiff will ask leave of court to amend this Complaint to substitute the true names of said Defendants. Plaintiff believes that each of the Defendants designated herein as a DOE Individual is in some manner responsible for the events referred to herein and caused damages proximately thereby to Plaintiff as alleged herein.

11. That ROE CORPORATIONS I through X are fictitious names of unknown Defendants named herein; Plaintiff is ignorant of the true names of said entities so designated by such fictitious names, and when the true names of said Defendants are discovered, Plaintiff will ask leave of court to amend this Complaint to substitute the true names of said Defendants. Plaintiff believes that each of the Defendants designated herein as a ROE CORPORATION is in some manner responsible for the events referred to herein and caused damages proximately thereby to Plaintiff as alleged herein.

12. The acts and occurrences complained of herein took place in the State of Nevada,
County of Clark.

13. Exercise of jurisdiction by this Court over the named Defendants is proper in this action.

14. Venue in Clark County, Nevada is appropriate in this action.

15. The Plaintiff filed charges of discrimination with the Equal Employment Opportunity Commission ("EEOC"); after an EEOC investigation, the EEOC issued Plaintiff a "Notice of Right to Sue" letter.

GENERAL ALLEGATIONS

16. On or about September 1, 2011 Plaintiff was hired by Defendant TruGreen as a service technician for Defendant TruGreen.
17. As early as September, 2011 and continuing until as late as October, 2012, when

- 1 TruGreen wrongfully discharged Plaintiff, TruGreen engaged in unlawful employment
2 practices in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a), *et al.*
3
- 4 18. During the aforementioned time period, TruGreen subjected the Plaintiff to pervasive,
5 systematic discriminatory conduct based on race that permeated and seethed throughout
6 every level of the workplace and to every job-site.
7
- 8 19. TruGreen openly and continuously created and/or engaged in and/or condoned a pattern
9 and practice of racial harassment and discriminating actions against Plaintiff in the
10 workplaces by subjecting the Plaintiff to discriminatory harassment, illegally denying
11 him promotions, illegally demoting him, wrongfully terminating Plaintiff, and/or failing
12 to take any remedial steps upon notice of same and/or retaliating against the Plaintiff
13 who complained of discrimination to management.
14
- 15 20. TruGreen did not take effective steps to deal with the harassment.
16
- 17 21. On or about May 8, 2012 Plaintiff suffered a work place injury, due to a faulty piece of
18 equipment.
19
- 20 22. Plaintiff was subject to unfair and untimely processing of a workers compensation claim
21 that he attempted to open with TruGreen.
22
- 23 23. Defendant refused to file Plaintiff's required forms for his industrial injury in a timely
24 manner and also would not disclose to Plaintiff the status of his claim, despite Plaintiff's
25 many attempts to inquire and seek information regarding his claim.
26
- 27 24. Since the inception of Plaintiff's employment with TruGreen, Plaintiff received unfair
28 and unjust treatment by Defendant.
29
- 30 25. Some of the treatment that the Plaintiff received was abrupt changes in his schedules,
31 constant ridicule regarding job performance, and harassment by superiors.
32

- 1 26. Plaintiff also had witnessed other non-Hispanic employee's violating company policy
- 2 and reported it to management but no punishment ensued.
- 3
- 4 27. The unfair and unjust treatment that Plaintiff was subjected to got progressively worse
- 5 after the filing of Plaintiff's workers compensation claim.
- 6 28. On or about October 23, 2012 Plaintiff, due to an overwhelming amount of stress placed
- 7 on him by Defendant TruGreen, was involved in a work related vehicle accident.
- 8
- 9 29. Defendant then informed Plaintiff that he was suspended pending an investigation in
- 10 relation to the workplace vehicle accident.
- 11
- 12 30. Plaintiff was informed six days later that he was terminated from his position and felt
- 13 that he was given an unjust and improper investigation of the events that transpired on
- 14 the date of the incident.
- 15
- 16 31. Upon information and belief, Plaintiff was terminated because of his race, as well as
- 17 because he filed a workers' compensation claim.

FIRST CLAIM FOR RELIEF

(Discrimination in Violation of NRS 613.330)

- 19 32. Plaintiff repeats and realleges each and every allegation set forth in the proceeding
- 20 paragraphs of this complaint, as though fully set forth herein, and further alleges, as
- 21 follows:
- 22
- 23 33. Defendant violated NRS 613.330 by discriminating against Plaintiff based on his racial
- 24 origin and/or color.
- 25
- 26 34. Plaintiff has established that the unfair employment practices of Defendant created a
- 27 hostile and unjust work environment.
- 28
35. Defendants failed to discipline other non-Hispanic employees for violating company

1 policy, but took disciplinary actions against Plaintiff for a similar offense solely as a
2 result of Plaintiff's race.

3 36. TruGreen violated NRS 613.330 by discharging and/or otherwise discriminating against
4 the Plaintiff with respect to his race and by allowing persistent and pervasive racial
5 harassment and/or discrimination to occur in the work place.

6 37. In addition and alternatively, TruGreen violated NRS 613.330 by limiting and/or
7 segregating, and/or classifying the Plaintiff in a way that deprived him and/or tended to
8 deprive him of employment opportunities, and/or otherwise adversely affected his status
9 as employee.

10 38. Defendants unlawful conduct damaged the Plaintiff in the form of lost wages and
11 income, lost economic opportunity, and pecuniary and non-pecuniary losses including
12 without limitation severe emotional pain and suffering.

13 39. As a direct and proximate result of Defendant's acts, the Plaintiff suffered damages in
14 the form of lost wages and income, lost economic opportunity, sever emotional distress
15 and suffering, and additional damages greater than fifty thousand dollars (\$50,000).

16 40. As a result of the Defendants' actions, it has been necessary for Plaintiff, Alfonso
17 Garcia, to retain the services of the law firm of Callister, Imberman & Associates to file
18 and prosecute this action, and Defendants should be required to pay Plaintiff's
19 reasonable attorney's fees and costs incurred in this action.

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SECOND CLAIM FOR RELIEF
(Discrimination in Violation of Title VII)

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25
26 41. Plaintiff repeats and realleges each and every allegation set forth in the proceeding
27 paragraphs of this complaint, as though fully set forth herein, and further alleges, as
28

1 follows:

- 2 42. TruGreen violated 42 U.S.C. § 2000e- 2(a)(1) by discriminating against Plaintiff and
3 allowing its employees to harass and/or discriminate against Plaintiff because of his race
4
- 5 43. Plaintiff has established that the discrimination and harassment created a hostile work
6 environment.
- 7 44. TruGreen failed to take adequate remedial and disciplinary actions in this matter.
8 45. Further, the harassers were considered to be supervisors.
9 46. TruGreen is vicariously liable for the hostile environment.
10 47. Plaintiff reported the hostile work environment, but TruGreen did not take effective
11 steps to deal with the harassment.
12 48. Defendants unlawful conduct damaged the Plaintiff in the form of lost wages and
13 income, lost economic opportunity, and pecuniary and non-pecuniary losses including
14 without limitation severe emotional pain and suffering.
15 49. As a direct and proximate result of Defendant's acts, the Plaintiff suffered damages in
16 the form of lost wages and income, lost economic opportunity, sever emotional distress
17 and suffering, and additional damages greater than fifty thousand dollars (\$50,000).
18 50. As a result of the Defendants' actions, it has been necessary for Plaintiff, Alfonso
19 Garcia, to retain the services of the law firm of Callister, Immelman & Associates to file
20 and prosecute this action, and Defendants should be required to pay Plaintiff's
21 reasonable attorney's fees and costs incurred in this action.
22 /.../.../
23 /.../.../
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THIRD CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)

- 3 51. Plaintiff repeats and realleges each and every allegation set forth in the preceding
4 paragraphs of this complaint, as though fully set forth herein, and further alleges, as
5 follows:
6
7 52. In engaging in the conduct described herein, TruGreen acted extremely and outrageously
8 intending to, and in fact causing, Plaintiff seyere emotional distress.
9 53. TruGreen acted intentionally, maliciously, and with an intent to injure and thus Plaintiff
10 is entitled to punitive damages in an amount determined by the trier of fact.
11 54. As a direct and proximate result of Defendant's conduct, the Plaintiff suffered damages
12 in the form of lost wages and income, lost economic opportunity, severe emotional
13 distress and suffering, and additional damages greater than Fifty Thousand Dollars
14 (\$50,000).
15
16 55. As a result of the Defendant's actions, it has been necessary for Plaintiff, Alfonso
17 Garcia, to retain the services of the law firm of Callister, Immerman & Associates to file
18 and prosecute this action, and Defendants should be required to pay Plaintiff's
19 reasonable attorney's fees and costs incurred in this action.
20

FOURTH CLAIM FOR RELIEF
(Negligent Infliction of Emotional Distress)

- 23 56. Plaintiff repeats and realleges each and every allegation set forth in the preceding
24 paragraphs of this complaint, as though fully set forth herein, and further alleges, as
25 follows:
26
27 57. TruGreen had a duty to avoid causing its employees distress.

- 1 58. TruGreen breached this duty by, among other things, suspending the Plaintiff, subjecting
2 him to unbearable working conditions and wrongfully terminating Plaintiff.
3
4 59. By and through the actions of TruGreen and its agents, TruGreen has negligently
5 inflicted emotional distress upon Plaintiff.
6 60. TruGreen's actions actually and proximately injured Plaintiff, and the resulting injuries
7 physically manifested themselves.
8
9 61. Additionally, as a direct and proximate result of TruGreen's acts, the Plaintiff suffered
10 damages in the form of lost wages and income, lost economic opportunity, severe
11 emotional distress and suffering, and additional damages greater than Fifty Thousand
12 Dollars (\$50,000).
13
14 62. As a result of the Defendant's actions, it has been necessary for Plaintiff, Alfonso
15 Garcia, to retain the services of the law firm of Callister, Immerman & Associates to file
16 and prosecute this action, and Defendants should be required to pay Plaintiff's
17 reasonable attorney's fees and costs incurred in this action.

FIFTH CLAIM FOR RELIEF
(Vicarious Liability)

- 20 39. Plaintiff repeats and realleges each and every allegation set forth in the preceding
21 paragraphs of this complaint, as though fully set forth herein; and further alleges, as
22 follows:

23

24 40. TruGreen is liable for the conduct of its agents and employees under the theory of
25 vicarious liability.

26 41. As an actual and proximate cause of TruGreen's agents and employees' conduct, the

1 Plaintiff suffered damages in the form of lost wages and income, lost economic
2 opportunity, sever emotional distress and suffering, and additional damages greater than
3 Fifty Thousand Dollars (\$50,000).

4 42. As a result of the Defendant's actions, it has been necessary for Plaintiff, Alfonso
5 Garcia, to retain the services of the law firm of Callister, Immerman & Associates to file
6 and prosecute this action, and Defendants should be required to pay Plaintiff's
7 reasonable attorney's fees and costs incurred in this action.

8
9
10
11 WHEREFORE, Plaintiff prays for judgment against the named Defendants herein, as
12 follows:

13 1. Ordering Trugreen Limited Partnership to make the Plaintiff whole by providing
14 appropriate compensation for the losses resulting from the unlawful employment
15 practices described herein, including without limitation back pay, subsequent loss
16 of income from potential employers, loss of attendant economic opportunity, past
17 and future pecuniary losses, including without limitation all costs and expenses
18 associated with the unlawful employment practices described herein, with
19 prejudgement interest, in an amount greater than \$50,000 as determined by the
20 trier of fact, and such alternative relief as will eradicate the effects of its past and
21 present unlawful employment practices.

22 2. Ordering TruGreen to make the Plaintiff whole by providing appropriate
23 compensation for past and future nonpecuniary losses resulting from the
24 unlawful employment practices described herein, including without limitation

1 emotional pain, suffering, and humiliation in an amount greater than \$50,000 as
2 determined by the trier of fact

- 3 3. Awarding Plaintiff appropriate punitive damages based on Defendant's
4 malicious, intentionally injurious conduct in an amount greater than \$50,000 as
5 determined by the trier of fact.
6
7 4. Ordering TruGreen to provide such further relief as this Court deems necessary
8 and proper for the public's interest and that of Plaintiff and all other similarly
9 situated employees.
10
11 5. Awarding Plaintiff reasonable attorney fees and costs associated with this action.

12
13 DATED this 10 day June, 2014.

14 CALLISTER, IMMERMAN & ASSOCIATES

15
16
17
18 MATTHEW Q. CALLISTER, ESQ.
19 Nevada Bar No. 001396
20 823 Las Vegas Blvd. So. 5th floor
21 Las Vegas, NV 89101
22 Phone: (702)385-3343
23 Attorneys for Plaintiff

6-16-14 15pm pp

1 SUMM
2 MATTHEW Q. CALLISTER, ESQ.
3 State Bar No. 001396
4 CALLISTER, IMMERMAN + ASSOCIATES, LLC
5 823 Las Vegas Boulevard South, 5th Floor
Las Vegas, Nevada 89101
Telephone: (702) 385-3343
Facsimile: (702) 385-2899
Attorney for Plaintiff

6 DISTRICT COURT
7

8 CLARK COUNTY, NEVADA
9

10 ALFONSO GARCIA, an individual,
Plaintiff,

-vs-

11 TRUGREEN LIMITED PARTNERSHIP, a
12 foreign limited partnership; DOE INDIVIDUALS
13 I through X, inclusive; and ROE
CORPORATIONS I through X, inclusive.,

Defendants.

CASE NO.: A-14-702050-C

DEPT. NO.: XVI

SUMMONS

(TRUGREEN LIMITED PARTNERSHIP, a
foreign limited partnership)

15 TO: TRUGREEN LIMITED PARTNERSHIP, a foreign limited partnership
16 NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT
17 YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION
BELOW.

18 TO THE DEFENDANT: A civil Complaint has been filed by the Plaintiff against you for the relief set forth
in Complaint.

19 THIS ACTION HAS BEEN FILED TO RECOVER FOR DAMAGES SUSTAINED BY PLAINTIFF

- 20 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you
exclusive of the day of service, you must do the following:
 - a. File with the Clerk of this Court, whose address is shown below, a formal written response to the
Complaint in accordance with the rules of the Court.
 - b. Serve a copy of your response upon the attorney whose name and address is shown below.
- 22 2. Unless you respond, your default will be entered upon application of the Plaintiff and this Court may
enter a judgment against you for the relief demanded in the Complaint, which could result in the
taking of money or property or other relief requested in the Complaint.
- 24 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your
response may be filed on time.

26 //
27 //
28 //

1 Issued at the direction of:

2 *[Signature]*
3 MATTHEW Q CALLISTER, ESQ.

4 Nevada Bar No.: 001396
5 823 Las Vegas Boulevard, So., 5th Floor
6 Las Vegas, Nevada 89101
7 Phone: (702) 385-3343

8 Attorneys for Plaintiff

9 STEVEN D. GRIERSON
10 CLERK OF THE COURT

11 CLERK OF COURT

12 DONNA MATSON

13 Deputy Clerk

14 JUN 10 2014

15 Date

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CIVIL COVER SHEET

A-14-702050-C

XVI

County, Nevada
Case No.
*(Assigned by Clerk's Office)***I. Party Information**

Plaintiff(s) (name/address/phone): ALFONSO GARCIA	Defendant(s) (name/address/phone): TRUGREEN LIMITED PARTNERSHIP, a foreign limited partnership
Attorney (name/address/phone): MATTHEW Q. CALLISTER 823 Las Vegas Blvd S, 5th F Las Vegas, NV 89101 702-385-3343	Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate) Arbitration Requested

Civil Cases		
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Lien <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	Negligence <input type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence - Other	Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input checked="" type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
<input type="checkbox"/> Probate Estimated Estate Value: _____	Other Civil Filing Types <input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Act/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	
<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters		

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

<input type="checkbox"/> NRS Chapters 78-88	<input type="checkbox"/> Investments (NRS 104 Art. 8)	<input type="checkbox"/> Enhanced Case Mgmt/Business
<input type="checkbox"/> Commodities (NRS 90)	<input type="checkbox"/> Deceptive Trade Practices (NRS 598)	<input type="checkbox"/> Other Business Court Matters
<input type="checkbox"/> Securities (NRS 90)	<input type="checkbox"/> Trademarks (NRS 600A)	

06/06/2014

Date

Signature of initiating party or representative

See other side for family-related case filings.